



December 15, 2022

The Honorable Sarah Netburn
 United States Magistrate Judge
 Southern District of New York
 Thurgood Marshall Courthouse
 New York, NY 10007

Re: *Lynne Freeman v. Tracy Deeks-Elkenaney et. al.* 22 Civ 2435 (LLS)

Dear Judge Netburn:

This firm represents Plaintiff Lynne Freeman ("Plaintiff") in the above-referenced action and is very briefly responding to Benjamin S. Halperin's letter to Your Honor of earlier today.

First, the Order as it now stands treats Plaintiff unfairly in comparison to Defendants. Defendants do not have to disclose any attorney client privilege communications regarding the litigation or work product communications relating to consulting experts in this litigation. Indeed, the purpose of discovery and privilege logs is not intended to pertain to those types of communications. It is intended to relate to communications which took place during the relevant events.

Second, Plaintiff does have to conduct research on the issue of the privilege log prior to its preparation. Plaintiff's counsel, however, has not had time to begin that research because he is working on other issues relating to the Court's recent Order, and also drafting responses to two sets of Requests for Admissions served in this case and working on deadlines in other matters. However, upon receipt of Mr. Halperin's letter, Plaintiff's counsel did a very small amount of initial research. In that initial research, he found law that the Courts in the Southern District of New York have held that identifying information of non-testifying experts does not have to be disclosed on a privilege log. *See Williams v. Bridgeport Music, Inc.*, 300 R.R.D. 120, 122-123 (S.D.N.Y. 2014). Moreover, the Courts generally find a waiver of the work product privilege only if the disclosure to another party substantially increased the opportunity for potential adversaries to obtain the information. *Id. at 123*. Thus, disclosure of the work product to certain third parties is not a waiver of the privilege.

We thank the Court for its time and attention to this matter.

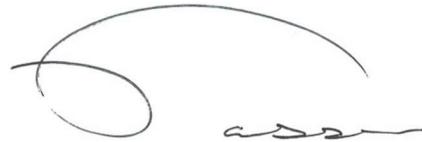
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Respectfully submitted,

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cc: All counsel of record (via ECF)

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